

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

<b>ELECTRONIC APPLICATION OF KENTUCKY</b>	<b>)</b>	
<b>UTILITIES COMPANY AND LOUISVILLE GAS</b>	<b>)</b>	
<b>AND ELECTRIC COMPANY FOR CERTIFICATES</b>	<b>)</b>	<b>CASE NO.</b>
<b>OF PUBLIC CONVENIENCE AND NECESSITY</b>	<b>)</b>	<b>2025-00045</b>
<b>AND SITE COMPATIBILITY CERTIFICATES</b>	<b>)</b>	

**JOINT PETITION OF  
LOUISVILLE GAS AND ELECTRIC COMPANY  
AND KENTUCKY UTILITIES COMPANY  
FOR CONFIDENTIAL PROTECTION**

Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively, “Companies”) petition the Kentucky Public Service Commission (“Commission”) pursuant to 807 KAR 5:001, Section 13 and KRS 61.878 to grant confidential protection for certain information the Companies are providing in their responses to supplemental requests for information from Commission Staff (“PSC”) Items Nos. 1(a) and (c), 3, 12, 17(g), 19, 26, and 36; Joint Intervenors (“JI”) Item Nos. 29, 41(b), 58, 59, and 65; Kentucky Coal Association (“KCA”) Item No. 7(i); and Sierra Club (“SC”) Item No. 18 in this proceeding.<sup>1</sup>

**Confidential Commercial Information – KRS 61.878(1)(c)(1)**

1. Under the Kentucky Open Records Act, the Commission is entitled to withhold from public disclosure commercially sensitive information to the extent that open disclosure would permit an unfair commercial advantage to competitors of the entity disclosing the information to the Commission.<sup>2</sup> Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

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<sup>1</sup> The confidential information contained in particular responses or their attachments, the statutory basis for confidentiality, and the extent of confidentiality (partial or entire) are listed in the document included herewith as **Attachment A**.

<sup>2</sup> KRS 61.878(1)(c)(1).

2. In response to PSC 2-1(a) and (c), PSC 2-3, PSC 2-36, and JI 2-41(b), the Companies are providing modeling workpapers that contain various types of confidential information that necessitate confidential treatment for the reasons described below.

### ***Commodity Price Expectations***

3. In response to KCA 2-7(j), the Companies are providing commercially sensitive coal bid prices. Additionally, the workpapers provided in response to PSC 2-1(a) and (c), PSC 2-3, PSC 2-36, and JI 2-41(b) contain projections of what the Companies expect to pay and receive for commodities they buy and sell, e.g., fuel, coal combustion residuals, ammonia, and emission allowances. If the Commission grants public access to this information, LG&E and KU could be disadvantaged in negotiating contracts to buy or sell these commodities in the future. The Companies could also be disadvantaged in the wholesale energy market because fuel costs are important components of energy pricing. All such commercial harms would ultimately harm LG&E's and KU's customers, who would have to pay higher rates if the disclosed information resulted in higher fuel prices or adversely affected the Companies' off-system energy sales. The Commission has previously granted the Companies' requests to protect this information from public disclosure.<sup>3</sup>

### ***Responses to RFP Data***

4. Confidential protection of RFP responses is necessary because disclosure would disrupt the competitive bid process. Public disclosure would place the Companies at a considerable disadvantage when negotiating future contracts and could disadvantage them in the wholesale energy market. Furthermore, public disclosure would provide insight into the Companies' evaluation of bids to the detriment of the Companies and their ratepayers. Public

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<sup>3</sup> See, e.g., Case No. 2022-00402, Order (Ky. PSC Aug. 17, 2023); Case No. 2022-00402, Order (Ky. PSC Aug. 31, 2023); Case No. 2022-00402, Order (Ky. PSC Nov. 20, 2023).

disclosure of this information would create precisely the kind of competitive harm KRS 61.878(1)(c)(1) intends to prevent. The responses to PSC 2-1(a) and (c) and PSC 2-3 contain confidential RFP response data. The Commission has previously granted the Companies' requests to protect this information from public disclosure.<sup>4</sup>

### ***Proprietary Information and Projections from Third Parties***

5. Certain responses contain proprietary information and projections obtained from third parties. These third parties include S&P Global, Itron, and others. As players in competitive markets, these third parties do not want confidential technical information or projections they have made to be publicly disclosed. If this proprietary information is disclosed, these parties and other third-party suppliers of the same kinds of information and analyses may be less willing to supply reports to the Companies in the future. Diminishing the Companies' ability to receive this information would harm both the Companies and their customers. This information should therefore be afforded confidential protection to protect the Companies and their customers. The responses to PSC 2-1(a) and (c) and PSC 2-3 contain these confidential information and projections. The Commission has previously granted the Companies' requests to protect this information from public disclosure.<sup>5</sup>

### ***Unit Maintenance Schedules***

6. The responses to PSC 2-1(a) and (c), PSC 2-3, and PSC 2-36 include unit maintenance schedules, the disclosure of which would unfairly advantage the Companies'

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<sup>4</sup> See, e.g., *Electronic Joint Application of Kentucky Utilities Company and Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Site Compatibility Certificates and Approval of a Demand Side Management Plan and Approval of Fossil Fuel-Fired Generation Unit Retirements*, Case No. 2022-00402, Order (Ky. PSC Aug. 17, 2023); Case No. 2022-00402, Order (Ky. PSC Aug. 31, 2023); Case No. 2022-00402, Order (Ky. PSC Nov. 20, 2023).

<sup>5</sup> See, e.g., *Electronic Application of Duke Energy Kentucky, Inc. for an Adjustment to Rider NM Rates and for Tariff Approval*, Case No. 2023-00413, Order at 3, 12-13 (Ky. PSC May 17, 2024) (granting confidential protection to proprietary third party reports and information); Case No. 2022-00402, Order (Ky. PSC Aug. 31, 2023); Case No. 2022-00402, Order (Ky. PSC Nov. 20, 2023).

competitors for wholesale power sales. This information would allow the Companies' competitors to know when generating plants will be down for maintenance and thus know a crucial input into the Companies' generating costs and need for power and energy during those periods. The commercial risk of the disclosure of this information is that potential suppliers would be able to manipulate the price of power bid to the Companies to maximize their revenues, thereby causing higher prices for the Companies' customers and giving a commercial advantage to LG&E's and KU's competitors. The Commission has previously granted the Companies' requests to protect this information from public disclosure.<sup>6</sup>

### ***Components of Long-Term Service Agreements***

7. The Companies' responses to PSC 2-1(a) and (c), PSC 2-3, PSC 2-36, and JI 2-41(b) include construction costs, vendor names, and cost components of long-term service agreements that are being negotiated. Public disclosure of this information would reveal the procedures followed and the factors and inputs considered by the Companies in evaluating the viability of possible generation projects. Public disclosure would give the Companies' contractors, vendors, and competitors access to the Companies' cost and operational parameters, and insight into the Companies' contracting practices. Public access to this information would impact the Companies' ability to negotiate with prospective contractors and vendors, and could harm the Companies' competitive position in the wholesale power market. All such commercial harms would ultimately harm LG&E's and KU's customers, who would have to pay higher rates if the disclosed information resulted in higher fuel prices or adversely affected the Companies' generation asset procurement process or off-system energy sales. In addition, certain supply-side

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<sup>6</sup> See, e.g., *Electronic Joint Application of Kentucky Utilities Company and Louisville Gas & Electric Company for Certificates of Public Convenience and Necessity and Site Compatibility Certificates and Approval of a Demand Side Management Plan and Approval of Fossil Fuel-Fired Generating Unit Retirements*, Case No. 2022-00402, Order (Ky. PSC Aug. 17, 2023).

information concerns interruptible contract information specific to identifiable customers of the Companies and should be protected as sensitive commercial information that could cause harm the Companies and their customers if disclosed.

***Commercially Sensitive Customer Information***

8. In response to PSC 2-17(g), the Companies are providing details of projects in their economic development queue. The confidential information includes customer (and potential customer) names, details of those customers' potential expansions and projects, and the location of said expansions and projects. If this information is disclosed, competitors of the Companies' customers and potential customers would be able to review confidential expansion and construction plans to the possible detriment of the customers and potential customers. Public access to this information would also impact the Companies' ability to negotiate with prospective customers and could harm the Companies' ability to attract future economic development. For these reasons, the Companies request confidential protection for the responses to PSC 2-17(g).

***Commercially Sensitive OVEC Information***

9. The response to PSC 2-19 contains the current status of OVEC's plans for environmental compliance and the status of each compliance project. Publicly disclosing this commercially sensitive information could adversely impact OVEC participants' ability to compete effectively in the wholesale energy marketplace. These competitive harms could also adversely affect the Companies' customers because the Companies are contractually obligated to purchase certain amounts of energy from OVEC, the total cost of which is affected by the amount of power OVEC participants use for their own customers or are able to sell. The Commission has

historically recognized the need for confidential treatment of this kind of sensitive third-party information.<sup>7</sup>

***Commercially Sensitive Tariff Cost Information***

10. In response to PSC 2-12, the Companies are providing an estimate of tariff risk provided by a Mercer Solar bidder. Publicly disclosing this commercially sensitive information could adversely impact the bidder as the bidder's competitors would be aware of the bidder's tariff risk and could derive the bidder's total project cost from the information provided. These competitive harms could also adversely affect customers if the Companies are forced to pay more for the project given the disclosure. Accordingly, the Companies request confidential protection for portions of the narrative response to PSC 2-12.

**Confidential Personal Information (KRS 61.878(1)(a))**

11. The Kentucky Open Records Act exempts from disclosure certain private and personal information.<sup>8</sup>

12. In response to JI 2-29, the Companies are providing a spreadsheet with the customers enrolled in the Curtailable Service Rider, along with the kW of load enrolled. Customers have a reasonable expectation of privacy to their load information. The identification of specific customer data, including CSR participation and load information, is personal information that should not be in the public domain.

13. In addition to containing commercially sensitive information, the response to PSC 2-17(g) also contains confidential personal information, including customer (and potential

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<sup>7</sup> See, e.g., *Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates*, Case No. 2014-00372, Order at 2-3 (Ky. PSC Apr. 28, 2015); *Electronic 2018 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, Case No. 2018-00348, Order at 3 (Ky. PSC Apr. 3, 2020).

<sup>8</sup> KRS 61.878(1)(a).

customer) names and proposed expansions and projects. The identification of specific customer data, including expansion and construction plans that may not be public, is personal information that should not be in the public domain.

14. The Companies request through this petition that the Commission protect the response to PSC 2-17(g) and JI 2-29 from public disclosure.

**Confidential Critical Energy Infrastructure Information – KRS 61.878(1)(m)**

15. Critical energy infrastructure information (“CEII”) is protected from public disclosure under KRS 61.878(1)(m)(1). The Kentucky Open Records Act exempts from public disclosure certain information that has a reasonable likelihood of threatening public safety by exposing a vulnerability, such as infrastructure records that disclose the “location, configuration, or security of critical systems,” or “detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems.”<sup>9</sup>

16. In response to PSC 2-26, the Companies are providing a map of an alternative transmission line placement. This map exposes the location and configuration of critical systems and transmission assets.

17. The Companies are providing their three most recently approved Transmission Expansion Plans in response to JI 2-65. These Plans contain detailed information about the Companies’ transmission assets, including the location, configuration, and security of the Companies’ system.

18. The Companies are providing system impact studies in response to SC 2-18. Relatedly, in response to JI 2-58, the Companies are providing power flow models used for the system impact studies and facilities studies, and the associated monitored element files, contingent

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<sup>9</sup> KRS 61.878(1)(m)(1)(f).

element files, and subsystem definition files used for the system impact studies. And in response to JI 2-59, the Companies are providing the PSS/E output used to generate the results of the system impact studies. The system impact studies, facilities studies, and related data, provided in response to JI 2-58, JI 2-59, and SC 2-18 contain infrastructure records, load data, and impact reports that could expose a vulnerability through the disclosure of the location, configuration, or security of public utility critical systems.

19. If such information is made available in the public record, individuals seeking to induce public harm will have critical information concerning the location and configuration of the Companies' transmission system. Knowledge of such configuration may allow a person to cause public harm by disrupting the electric transmission system.

#### **Confidential Information Subject to this Petition**

20. The information for which the Companies are seeking confidential treatment is not known outside of LG&E and KU and its contractors, is not disseminated within LG&E and KU except to those employees with a legitimate business need to know and act upon the information, and is generally recognized as confidential and proprietary information in the energy industry.

21. The Commission has consistently granted confidential protection to similar information in previous cases.<sup>10</sup>

22. The Companies will disclose the confidential information, pursuant to a confidentiality agreement, to intervenors with legitimate interests in the information and as required by the Commission. The only exception to this disclosure concerns coal bid information being supplied in response to KCA 2-7(i), which the Companies cannot disclose to the Kentucky

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<sup>10</sup> See, e.g., *Electronic 2018 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, Case No. 2018-00348, Order (Ky. PSC Nov. 16, 2018); *2014 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, Case No. 2014-00131, Order (Ky. PSC Aug. 9, 2019).



Coal Association, Inc. and Kentucky Industrial Utility Customers, Inc., whose members and non-members supply confidential coal bids to the Companies. There is no way to disclose that confidential information to those parties without great risk of significant commercial harm to the Companies and their customers.

23. If the Commission disagrees with this request for confidential protection, it must hold an evidentiary hearing (a) to protect the Companies' due process rights and (b) to supply the Commission with a complete record to enable it to reach a decision with regard to this matter.<sup>11</sup>

24. In compliance with 807 KAR 5:001, Section 13, LG&E and KU are providing written notification that the responses to PSC 2-26, JI 2-29, JI 2-41(b), JI 2-58, JI 2-59, JI 2-65, and SC 2-18 are confidential in full.

25. For the responses to PSC 2-1(a), PSC 2-1(c), PSC 2-3, PSC 2-12, PSC 2-19, PSC 2-36, and KCA 2-7(i), which are not entirely confidential, the Companies are filing with the Commission one electronic copy that identifies with redactions the information for which confidential protection is sought. In accordance with the Commission's March 24, 2020 and July 22, 2021 Orders in Case No. 2020-00085, the Companies will upload the unredacted copies noting the confidential information with highlighting to its encrypted file-share site for the Commission's retrieval. Access to the encrypted file-share site will be provided to intervenors pursuant to a confidentiality agreement.

26. Due to the serious security concerns related to the disclosure of CEII, the Companies request that the CEII provided in response to JI 2-58, JI 2-59, JI 2-65, and SC 2-18 remain confidential indefinitely. For all other requests for confidential protection, the Companies

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<sup>11</sup> *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. Ct. App. 1982).

request that confidential protection be granted for five years due to the sensitive nature of the information at issue.

**WHEREFORE,** Louisville Gas and Electric Company and Kentucky Utilities Company respectfully request that the Commission grant confidential protection for all of the information described herein.

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Respectfully submitted,



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### **CERTIFICATE OF SERVICE**

In accordance with the Commission's Order of July 22, 2021 in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), this is to certify that the electronic filing has been transmitted to the Commission on May 16, 2025; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.



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*Counsel for Louisville Gas and Electric Company  
and Kentucky Utilities Company*